

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

REGINALD GIBSON,

Plaintiff,

v.

E. CASTELLANOS, et al.,

Defendants.

No. 1:21-cv-00794 KES GSA (PC)

ORDER GRANTING DEFENDANTS'
MOTION TO VACATE CASE SCHEDULE

(ECF No. 47)

Defendant Castellanos has filed a motion to vacate the existing case schedule. ECF No. 47. The Court construes the motion as a motion to modify the discovery and scheduling order which was issued January 8, 2024. See ECF No. 37 (discovery and scheduling order).

In the motion, counsel for Defendant requests that the Court vacate all outstanding dates in this matter. ECF No. 47 at 6-7 (Decl. of E. Medina, counsel for Defendant). In support of the request, Counsel declares that Plaintiff has failed to respond to written discovery requests that Defendant has served. Id. As result, Defendant has been prevented from further litigating this action and from complying with the current case schedule. Id.

Counsel also points out that a motion to compel has been filed simultaneously with the instant motion. ECF No. 47 at 6. However, he asserts that even if Plaintiff does serve responses, they could not be used by Defendant to prepare a timely motion for summary judgment on the issue of exhaustion by the April 19, 2024, deadline. Id. Furthermore, Counsel contends

1 Defendant is entitled to Plaintiff's discovery responses and to be able to use them when filing any
2 motion for summary judgment. Id.

3 Counsel for Defendant concludes that the motion is not brought for the purpose of delay,
4 harassment, or any other improper purpose, and a grant of it will not unfairly prejudice Plaintiff.
5 See ECF No. 47 at 7. Counsel further avers that notice of the instant motion will be promptly
6 served on Plaintiff by mail. Id. Good cause appearing, the motion will be granted.

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. Defendant's motion to modify the discovery and scheduling order (ECF No. 47) is
9 GRANTED nunc pro tunc, and

10 2. All dates identified in the discovery and scheduling order issued January 8, 2024 (see
11 ECF No. 37), are hereby VACATED pending the resolution of Defendant's motion to compel
12 (see ECF No. 46).

13 **The parties are informed that once Defendant's motion to compel has been**
14 **addressed, if appropriate , under separate order, the Court will issue new discovery**
15 **deadline dates.**

16 **All other directives in the discovery and scheduling order are to remain in full force**
17 **and effect.**

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20 IT IS SO ORDERED.

21 Dated: April 29, 2024

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE